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CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 San Francisco Division
11

12 JUSTIN ABDOLLAHI,
13 1200 N. Flores St #111
14 West Hollywood, CA 90069,
15

16 Plaintiff,

17 v.

18 NUGS.NET ENTERPRISES, INC.,
19 1383 9th Avenue
20 San Francisco, CA 94122,
21

22 Serve resident agent:

23 Jon M. Richter,
24 1383 9th Avenue
25 San Francisco, CA 94122,
26

27 Defendant.

CV24-04026

Case No.

ARB No. 2023-0042

ALJ No. 2022-TAX-00008

OASHA Case No 9-3290-22-428

JCS

28 COMPLAINT FOR VIOLATIONS OF
THE TAXPAYER FIRST ACT 26 U.S.C.
§ 7623(d), FALSE CLAIMS ACT
RETALIATION 31 U.S.C § 3730(h),
CALIFORNIA WAGE PAYMENT AND
COLLECTION ACT, CAL LABOR
CODE § 203 *et seq.*, THE CALIFORNIA
WHISTLEBLOWER ACT, CA LABOR
CODE § 1102.5 *et seq.*, AND COMMON
LAW BREACH OF CONTRACT.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Justin Abdollahi files this Complaint against Nugs.net Enterprises, Inc. (“Nugs.net”) to recover damages and attorneys’ fees for violations of the Taxpayer First Act 26 U.S.C. § 7623(d), and False Claims Act Retaliation 31 U.S.C § 3730(h).

Jurisdiction and Venue

1. This Court has subject matter jurisdiction over this action under the Taxpayer First Act 26 U.S.C. § 7623(d) because it is an action arising under the laws of the United States.
 2. This Court has personal jurisdiction over Defendant pursuant to 31 U.S.C. § 3732(a) because Defendants transact business in this judicial district.
 3. Venue is proper in this Court under 28 U.S.C. § 1391(c) and 1395(a) because illegal acts occurred within this judicial district, Defendants are resident of this district, and because Defendants transact business within this judicial district.
 4. This Court has personal jurisdiction over Defendant because the Defendant does business in and is headquartered in this Division.
 5. This Court has jurisdiction over this action pursuant to 29 CFR § 1989.114 as this matter originates from the U.S. Department of Labor Administrative Review Board (“ARB”) and the Secretary has not issued final decision within 180 days of the filing of the complaint which was September 10, 2023. Plaintiff is bringing de novo review of this matter to this Court.

Parties

6. Plaintiff is a resident of West Hollywood, California and is a former employee of Defendant.

7. Defendant is a Delaware corporation with its principal place of business and headquartered located at 1383 9th Avenue, San Francisco, CA 94122.

Statement of Facts

8. Abdollahi is a financial analyst and manager with extensive experience managing mergers and acquisitions and media streaming. After acquiring his MBA in finance, Abdollahi helped manage Comcast's merger and acquisition deal with NBC Universal and later worked as the Director of Content & Marketing FP&A for Viacom International, leading financial planning for the firm's growing international media and streaming business.

9. Nugs.net is a Delaware corporation based in San Francisco, CA, whose primary product is the streaming and selling of recorded live music concerts. It has thirty-eight employees, including in several states outside of California. Due to new state-level laws in states such as California and Pennsylvania requiring sales taxes for online purchases, Nugs.net built a mechanism for applying such costs on top of its subscription fees and other purchase options and implemented it in or around 2017.

10. Nugs.net hired Abdollahi as its vice president of finance and Chief Financial Officer (“CFO”) in September 2021. He performed excellently, receiving praise from the executive team. Abdollahi created a five-year plan that was sensitive to company attribution and content elasticity, putting the firm in a particularly good position for an upcoming merger and acquisition. Jon Richter, Nugs.net’s chief operating officer (“Richter”) told Abdollahi that the

1 company had never had a five-year plan before. Because of Abdollahi's excellent performance
2 the first two months on the job, Brad Serling, Nugs.net's chief executive officer ("Serling")
3 gifted to Abdollahi two premium tickets to a live music concert on October 31, 2021 as
4 recognition, appreciation, and thanks to Abdollahi for his work at the company.

5 11. Abdollahi transitioned Nugs.net from a \$25-28 million company to a \$60-\$80
6 million company largely through reconciling the company's purpose with how it had positioned
7 itself on the market. Abdollahi positioned Nugs.net as a media company, not a production
8 company, allowing the firm to merge with Fly Machine for \$60-\$80 million and allowing the
9 combined entity to sell itself for \$160 million to investors.

10 12. During Abdollahi's tenure at the company he discovered, disclosed, investigated,
11 and attempted to correct 3 instances of fraud at the company described in detail below 1)
12 Monthly Tax-Free Payments to Defendant's Controller 2) Surplus Sales Tax Conversion
13 Impacting Federal Tax Returns and 3) Illegal Use of PPP Funds.

14 13. As a result of disclosing tax fraud concerns at the company Abdollahi suffered
15 from hostile working conditions at Nugs.net leading Abdollahi to file a formal complaint with
16 Schlesinger on December 3, 2021. Abdollahi pleaded with Schlesinger "[Abdollahi] cannot
17 continue to be treated in a hostile and abusive manner by [Schlesinger]". Schlesinger did not
18 stop, however.

19 14. The following statement of facts recount at least 14 instances where Abdollahi
20 provided information to Nugs.net and assisted in an investigation regarding underpayment of
21 federal income tax.

Statement of Facts – Monthly Tax-Free Payments to Defendant's Controller

15. In or around November 2021, Abdollahi discovered a tax-free \$1,000 per month payment to Nugs.net’s controller Jenna Schlesinger (“Schlesinger”). Abdollahi first learned about the tax-free payments while performing financial modeling at the company contained in filenames “Payroll.xls”, “2021 Bonus.docx”, and “Nugs.net executive compensation.docx”.

16. On or around November 29, 2021, Abdollahi reported his findings to Schlesinger and offered solutions to remedy the tax issue and not impact Schlesinger's take-home pay. Abdollahi informed Schlesinger, who had the power to stop and correct the fraud, that this method of accounting is fraudulent, leading the company to falsify its business records, file numerous fraudulent federal tax forms, and underpay its federal tax liability. Schlesinger dismissed Abdollahi's concerns and refused to discuss the matter further.

17. Alongside conversations with Schlesinger, Abdollahi discussed with Richter the payroll tax fraud he uncovered. Richter's reply was that Abdollahi was "incorrect", and the company "pays its taxes". Abdollahi and Richter discussed executive compensation and bonus for the 2021 fiscal along viewing related files "Payroll.xls", "2021 Bonus.docx", and "Nugs.net executive compensation.docx" amongst others. Abdollahi urged Richter to "correct this easy to solve issue, especially before the merger with Fly Machine." Abdollahi informed Richter that this method of accounting is fraudulent, leading the company to falsify its business records, file numerous fraudulent federal tax forms, and underpay its federal tax liability.

18. On or about the week of November 29, 2021 Abdollahi met with Richter and discovered that Richter was responsible for issuing under-the-table payments to both Richter and Serling as well as Schlesinger.

1 19. On or around December 2, 2021, as discussion progressed unsuccessfully and
 2 Schlesinger and Richter refused to discuss rationally the current situation or any remedy to the
 3 fraudulent tax reporting Abdollahi formally informed Schlesinger that “[Schlesinger’s] actions
 4 were fraudulent, leading to falsifying tax returns, under paying tax liability, and that [Abdollahi]
 5 was required to disclose.”

6 20. Before the holiday break on December 17, 2021, Abdollahi formally reported the
 7 tax fraud to Richter through e-mail correspondence and verbally during meetings about
 8 compensation. Richter’s reply over the phone call was that “[Abdollahi] was not supporting the
 9 company” and accused Abdollahi of “undermining the upcoming merger.”

10 21. At this point, on December 23, 2021, Nugs.net reduced Abdollahi’s bonus for the
 11 2021 benefit year to \$7,500, versus of a minimum bonus of \$10,000 per the employment
 12 contract, in retaliation for reporting tax fraud concerns at the company. The bonus was due on
 13 December 23, 2021, when other employees’ bonuses were paid, and the Company provided no
 14 information to Abdollahi on the nature of the reasons behind the reduced bonus. When Abdollahi
 15 asked Richter why the bonus was short 25% Richter replied “we’ll see” and then Richter
 16 terminated the call. Abdollahi’s bonus was reduced by the Company in retaliation for reporting
 17 tax fraud concerns at the company.

18 22. In total, Abdollahi observed over three years’ worth of checks paid to Jenna
 19 Schlesinger that were not issued by Nugs.net payroll provider, and instead were separate
 20 “manual” checks signed by Jon Richter. These payments were not part of the normal payroll
 21 procedures and evaded federal taxes across various governmental tax collecting agencies.

22 23. The “manual” payments to Schlesinger were compensation to collude and allow
 23 the company to perpetrate tax fraud including the surplus sales tax conversion scheme and PPP

1 load fraud, each described in more detail below. Schlesinger's role at the company is controller
 2 and financial statement fraud is central to each of those crimes and since a controller is
 3 responsible for financial statement accuracy and financial reporting accuracy Schlesinger
 4 colluded and was an accomplice in perpetrating tax fraud at the company.

5 24. Providing unreported money to employees is an attempt to evade or defeat tax
 6 under 26 U.S. Code § 7201, which carries fines of up to \$100,000 (for individuals) or \$500,000
 7 (for corporations) and up to five years of imprisonment. Nugs.net provided unreported money to
 8 Jenna Schlesinger and is therefore in violation of 26 U.S. Code § 7201.

9 25. Paying Schlesinger \$1,000 payments in separate monthly checks, outside the
 10 payroll system used by Nugs.net, evaded the 2.9% Medicare tax, the 12.4% Social Security tax,
 11 paid by the Company and Schlesinger. These payments were not included as Employee Income
 12 on the Company's 941 Employer Quarterly Tax Return ("941 Tax Return"), form 940 Federal
 13 Unemployment Tax Return ("940 Tax Return"), Employees W-2 Wage Statement ("Employee
 14 W-2"), and subsequently the company under paid its employment tax liability. Abdollahi is
 15 certain of this assertion because he reconciled the Company books and records to payroll activity
 16 and corporate payroll tax payments and indeed, these payments were not reported on 941 Tax
 17 Return, 940 Tax Return, or Employee W-2, and the company did not pay the tax owed.

18 26. Furthermore, Nugs.net improperly deducted the \$1,000 monthly payments to
 19 Schlesinger as employee expenses on its book and records, and on its Corporate Federal 1120
 20 Corporation Tax Return ("1120 Tax Return"), which is expressly disallowed by the IRS (see
 21 below). Nugs.net falsified its tax returns, underreported its corporate federal tax liability, and
 22 paid less tax than owed. Abdollahi is certain of this assertion because he reconciled the Company
 23 books and records to the 1120 Tax Return, and the company did not pay the tax owed.

1 In IRS Publication 15 Circular E Employer's Tax Guide the IRS states the definition of taxable
 2 income "Wages subject to federal employment taxes generally include all pay you give to an
 3 employee for services performed. The pay may be in cash or in other forms. It includes salaries,
 4 vacation allowances, bonuses, commissions, and taxable fringe benefits." In the IRS Publication
 5 15-B Employer's Tax Guide to Fringe Benefits states "Any fringe benefit you provide is taxable
 6 and must be included in the recipient's pay unless the law specifically excludes it. Section 2
 7 discusses the exclusions that apply to certain fringe benefits. Any benefit not excluded under the
 8 rules discussed in section 2 is taxable." The Fringe Benefits guide further describes in Section 2
 9 a maximum exclusion of \$2,000 in fringe benefits per year, and since Schlesinger's fringe
 10 benefit payments totaled \$12,000 in annual benefit paid it was evident that the \$12,000 annual
 11 payments to Schlesinger were unreported, was improperly accounted for and evaded taxation on
 12 Nugs.net 1120 Tax Return and on Jenna Schlesinger's personal tax returns.
 13

15 **Statement of Facts – Surplus Sales Tax Conversion Impacting Federal Tax Returns**

16 27. In or around November 2021, Abdollahi noticed that Nugs.net was charging
 17 customers a sales tax higher than allowed, remitting an amount less than owed to the state taxing
 18 authority, and pocketing the difference. Abdollahi determined that the surplus tax conversion
 19 was likely fraudulent since he knew that any surplus tax collection is, required by law, to be
 20 remitted to the appropriate state or federal taxing authority.

21 28. Abdollahi also noticed how the fraudulent surplus tax conversion manifested itself
 22 on the financial statements. Nugs.net improperly retained the surplus cash of \$200,000 -
 23 \$300,000 annually and subsequently recorded sales tax expense on its financial statements.
 24 Nugs.net then took the \$200,000 - \$300,000 cash surplus to pay off cycle bonuses to Richter,

1 Serling, and Schlesinger, and recorded Compensation & Benefits expenses for the bonus
2 payments. If this were a compliant transaction, the surplus \$200,000 - \$300,000 annually would
3 have been paid to the respective states (CA, NY, PA, and others), no sales tax expenses recorded
4 on the financial statements, no cash payment to Richter, Serling, and Schlesinger as bonuses, and
5 no bonus expenses reflected on the books.

6 29. During the week of December 6, 2021 Abdollahi went to Nugs.net website to test
7 the sales tax calculation contained on the website and billing system. Abdollahi put certain items
8 in his cart, entered the address, and the website would compute the final bill to the customer.
9 Abdollahi is aware of the different tax treatments of physical and digital goods across various
10 states, so many tests were undertaken to arrive at the conclusion that the website was in fact over
11 charging. For example, one such test is that the website would charge \$2.89 for a \$24.95
12 compact disc shipping to Los Angeles, CA. In this example, the tax charged was 11.6% versus
13 the allowable tax rate in Los Angles of 9.5% for compact discs shipping received in Los
14 Angeles. This is a 2.1% error, and when extrapolated across an approximate \$20 million dollar
15 revenue stream and across affected product lines, states, etc. it made sense to Abdollahi that a
16 \$200,000 - \$300,000 surplus tax conversion was probable and customers at large were being
17 defrauded. See "Exhibit B" for detail.

18 30. During the week of December 6, 2021, Abdollahi formally reported concerns
19 regarding the surplus tax conversion issue in order to require Nugs.net to stop fraudulently
20 overcharging customers for taxes that were then converted to income for the Company.
21 Abdollahi notified Richter of the sales tax fraud alongside the payroll tax fraud issue regarding
22 under the table payments to Schlesinger. Abdollahi also let Richter know that he "was required
23 to disclose the surplus tax conversion issue for the upcoming merger with Fly Machine", and in
24
25
26
27

1 response Richter told him that Abdollahi “was not supporting the company” and accused
 2 Abdollahi of “undermining the upcoming merger.”

3 31. Subsequent, on December 23, 2021, Nugs.net reduced Abdollahi’s bonus for the
 4 2021 benefit year to \$7,500, versus of a minimum bonus of \$10,000 per the employment
 5 contract, in retaliation for reporting tax fraud concerns at the company. The bonus was due on
 6 December 23, 2021, when other employees’ bonuses were paid, and the Company provided no
 7 information to Complainant on the nature of the reasons behind the reduced bonus. When
 8 Abdollahi asked Richter why the bonus was short 25% Richter replied “we’ll see” and Richter
 9 then terminated the call. Abdollahi’s bonus was reduced by the Company in retaliation for
 10 reporting tax fraud concerns at the company.

12 32. Subsequent, on or around January 12, 2022, Abdollahi again reported the sales tax
 13 conversion issue to Richter and Schlesinger and asked what the next steps were to compliance.
 14 Schlesinger replied in the meeting, “there are many more important things to take care of instead
 15 of sales tax” and Jon replied “that’s right” in a joking tone.

17 33. Subsequent, on or around January 18, 2022 Abdollahi again reported the surplus
 18 tax conversion fraud to Richter, Schlesinger, Jeff Millborne (Nugs.net head of IT), and Jeff
 19 Gorman (Nugs.net head of customer service) to discuss next steps toward compliance. During
 20 this meeting the surplus tax conversion was discussed, as was the improper accounting treatment,
 21 fraudulent federal tax returns, and company needing to pay back taxes to the IRS and state taxing
 22 agencies. When Abdollahi asked Richter and Schlesinger why Nugs.net ignored the accountants
 23 report their response was that it “wasn’t their top priority” and at least it “was a good problem to
 24 have” since it provided “extra cash flow for the company”. Abdollahi let the team know this
 25 method of accounting is fraudulent, leading the company to falsify its business records, file
 26

1 fraudulent federal and state tax forms, and underpay its federal and state tax liability. Millborne
 2 and Gorman responded that “they knew about the issue” and they began to explain how
 3 “complicated the process was to fix and they did not have the time”. Abdollahi offered to “take
 4 over the remittance of sales tax and could devise a method to properly calculate the tax” but was
 5 denied the opportunity to push the company into compliance.

6 34. Subsequent, on or around January 31, 2022, Abdollahi e-mailed Richter to let him
 7 know he was required to disclose the surplus tax conversion issue for the merger and specifically
 8 the P&L information that was to be submitted to a 3rd party valuation company for the upcoming
 9 merger with Flymachine. Richter replied to Abdollahi the same day instructing Abdollahi not to
 10 record the sales tax conversion fraud correction on the Company’s books and Abdollahi was
 11 asked to submit the fraudulent P&L statement to the company’s 3rd party valuation service.

12 35. Subsequent, on or around February 3, 2022 Abdollahi again reported the surplus
 13 tax conversion fraud and its implication on financial statements, federal tax forms, and IRS
 14 payments to Richter, Schlesinger, and the Company’s external accountants Eiseramper LLP
 15 (“Eiseramper”). Abdollahi notified the meeting attendees that “there is fraud here” and recounted
 16 the sales tax conversion issue. Richter was silent and the accountant responded by saying that
 17 “they knew about the issue and [they] wanted to further advise the company was not paying state
 18 taxes owed in nearly thirty states where it should have” due to the presence of remote employees
 19 or a certain amount of revenue including Washington, Illinois, and Florida. Abdollahi learned at
 20 that point that Richter and Schlesinger knew about this issue as well. As a follow up to this
 21 meeting, and to confirm that the Company understood its responsibilities regarding sales tax, its
 22 implications to federal taxation, and the liabilities that the company might owe, Eiseramper sent
 23 the meeting attendees a “sales tax nexus chart” clearly indicating the proper tax rates and
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 25
 26
 27

1 additional details. The thread of this email dated back to 2020 so Abdollahi knew that the
 2 Company was aware of the fraudulent nature of the designed surplus sales tax conversion
 3 mechanism for several years.

4 36. One week later, on Feb 11, 2022, Richter informed Abdollahi that Nugs.net was
 5 terminating his employment, effective immediately. Richter did not offer any reason as
 6 justification for the termination.
 7

8 37. Nugs.net decided to do nothing about the surplus tax conversion issue and keep it
 9 going as long as possible because the additional cash flow pushed Nugs.net into slight
 10 profitability, and bonus payout amounts increased at the same rate as sales tax revenue.

11 38. Prior to termination Abdollahi financially modeled nug.net business performance
 12 excluding the surplus tax conversion issue, within filename “nugs.net financial model 2-10.xlsx”,
 13 “nugs.net financial model.xlsx”, and “nugs.net+enterprises,+inc._Profit+and+Loss.xlsx”, among
 14 others. Abdollahi was creating what’s called a “Proforma” in corporate finance, in this case,
 15 reporting Nugs.net profit and loss (“P&L”), and ultimately corporate valuation, without the
 16 fraudulent surplus sales tax conversion.
 17

18 39. Abdollahi determined that 3 out of the past 5 years cash flow position of the
 19 company would have been negative excluding the sales tax fraud, which would have
 20 communicated a net loss on the profit & loss statement. The Proforma P&L was very
 21 problematic for Nugs.net. Specifically, Richter and Nugs.net were evaluating a sales price for the
 22 company of \$80 million as offered by Fly Machine versus a lower amount should Richter and
 23 Nugs.net accept and submit the proforma P&L and summit to Fly Machine for purposes of
 24 valuing the purchase price for Nugs.net. The motivations for Richter and Nugs.net executive
 25 team was to cover up the sales tax issue, quietly sell the company and the embedded tax fraud
 26

1 issue to Fly Machine, and profit for doing so. Nugs.net knew about the tax issue and decided not
 2 to act or correct.

3 40. Collecting **state sales tax** and not accounting for same and paying them over is a
 4 **violation of federal tax law** when the converting party fails to report the same as income
 5 (Emphasis Added). *United States v. Dixon*, 698 F.2d 445, 446 (11th Cir. 1983) (gross income
 6 includes proceeds from investment fraud scheme); *Moore v United States*, 412 F.2d 974, 978 (5th
 7 Cir. 1969) (income includes gains from illegal activities).

8 41. Recording sales tax as expense on the company's books and records is a violation
 9 of federal Tax rules in Publication 535 Business Expenses, and when the company did not
 10 immediately remit the surplus cash of \$200,000 - \$300,000 annually to the federal government,
 11 or state taxing authorities, it violated 26 U.S.C §6 655. By keeping the surplus tax conversion
 12 inside the company, recording as sales tax expense, and then paying the additional cash bonuses
 13 to Serling, Richter, and Schlesinger, is a clear violation of this code.
 14

15 42. In 2021 for example, the company reported approximately \$300,000 in **expense**
 16 on the corporations 1120 Tax Return, when it should have reported **income** of \$300,000 as
 17 required by *United States v. Dixon* "Collecting **state sales tax** and not accounting for same and
 18 paying them over is a violation of **federal tax law** when the converting party fails to report the
 19 same as income" (emphasis added). The same occurrences of recording sales tax expense and no
 20 sales tax income were present in the 2019 and 2020 federal 1120 Tax Return.
 21

22 43. In Publication 535, Business Expenses published by the IRS it defines what
 23 expenses can and cannot be deducted by a business and clearly states "Do not deduct state and
 24 local sales taxes imposed on the buyer that you must collect and pay over to the state or local
 25 government. Also, do not include these taxes in gross receipts or sales." Nugs.net violated the
 26

guidance in the IRS publication and therefore violated 26 U.S.C §6 655 by falsifying IRS tax returns in years 2021, 2020, and 2019 because each of these years has the sales tax fraud being reported as **expenses** on the corporate tax submissions to the IRS.

44. The surplus state sales tax conversion fraud does, in fact, have an impact to federal tax returns. Nugs.net failed to pay accurate estimated income tax at the federal level as governed by 26 U.S.C §6 655 in 2021, 2020, and 2019 by deducting sales tax expense on its Federal 1120 Tax Return and then subsequently using the surplus tax conversion fraud mechanism to pay Serling, Richter, and Schlesinger off cycle bonuses. Abdollahi is certain of this assertion because he reconciled 2020, and 2019 business activity against the IRS tax returns in the respective years and confirmed the fraudulent reporting to the IRS. Abdollahi also had a conversation with Nugs.net accountant at Eiseramper and confirmed his assertion that the fraudulent sales tax conversion issue was in fact reported improperly on the 1120 Tax Return.

Statement of Facts – Illegal Use of PPP Funds

45. In or around January 2022, as part of financial statement preparation, Abdollahi reviewed Nugs.net’s financial handling of the loan proceeds it received when it participated in the federal Paycheck Protection Program (“PPP”) in an analysis with filename “ppp.xlsx”. Abdollahi looked at the Company payroll for 2019, 2020 and 2021 and determined what payroll by employee was over the \$100,000 limitation provided by the CARES Act and the subsequent Small Business Administration Clarification.

46. Abdollahi determined that the amounts claimed as Payroll on the application for PPP loan forgiveness was falsified and the total amount of improperly forgiven loans totaled \$857,395. Salary and bonuses paid to Richter and Serling more than \$100,000 across two PPP

1 loans totaled were ineligible for forgiveness. Across two years, Nugs.net paid off cycle bonuses
 2 to Serling and Richter that amounted to roughly \$850,000, a similar amount to the loan proceeds
 3 of \$857,395. Since the bonuses were off cycle Abdollahi related the sources of loan proceeds
 4 being used for executive bonuses which is a clear a violation of the forgiveness criteria at 15
 5 U.S.C. § 636(a)(37)(J).

6 47. During the period staring on or about January 31, 2022 through February 10, 2022
 7 Abdollahi notified Richter that the Company was required to disclose the misappropriation of
 8 PPP funds and for the merger by adjusting the Proforma P&L, as well as the need to amend prior
 9 year federal tax returns. Abdollahi explained to Richter the heightened awareness for financial
 10 statement accuracy due to purpose of using the financials statements to value the company for
 11 the upcoming merger.

12 48. On or around January 31, 2022, Abdollahi e-mailed Richter to let him know he
 13 was required to disclose PPP Fraud issue for the merger and specifically the P&L information
 14 that was to be submitted to a 3rd party valuation company for the upcoming merger with Fly
 15 Machine. Richter replied to Abdollahi the same day instructing Abdollahi not to record the PPP
 16 Fraud correction on the Company's books and Abdollahi was asked to submit the fraudulent
 17 P&L statement to the company's 3rd party valuation service. Since this correction would have in
 18 turn adjusted the Company's Federal 1120 Tax Return, Richter prevented the tax return
 19 correction as well.

20 49. On February 10, 2022 Abdollahi informed Richter, that this method of accounting
 21 for PPP loan forgiveness is fraudulent, leading the company to falsify its business records, file
 22 numerous fraudulent tax forms, and underpay its tax liability.

50. One day later, on Feb 11, 2022, Richter informed Abdollahi that Nugs.net was terminating his employment, effective immediately. Richter did not offer any reason as justification for the termination.

51. The illegal use of federal PPP loan funds constitutes tax evasion under 26 U.S.C. § 7201 and the scheme that Schlesinger and Richter devised was a willful attempt to evade or defeat tax. Nugs.net had a total of \$857,395 in PPP loans improperly forgiven during 2021.

52. A properly forgiven PPP loan is excluded from business's taxable income, an improperly forgiven loan should be included in taxable income (See generally I.R.S. Chief Couns. Mem 2002237010 (Aug. 19, 2022) at 3-4). Nugs.net did not include improperly forgiven PPP loan funds of approximately \$857,395 in taxable income on its 1120 Federal Tax Return for 2021 or 2020 and is therefore in violation of 26 U.S.C. § 7201. Abdollahi is certain of this assertion because he reconciled the Company's books and records to 1120 Tax Return for 2020, and confirmed with Nugs.net external accountants Eiseramper that Nugs.net did not record any income related to PPP loans improperly forgiven on the 1120 Tax Return.

53. \$857,395 should have been recorded as income on the 1120 Tax Return and it was not, and therefore is a violation of 26 U.S.C. § 7201.

Statement of Facts – Hostile Work Environment and Nugs.net Manufacturing False Business Records

54. Nugs.net intentionally created intolerable and hostile working conditions for Abdollahi starting immediately following Abdollahi's reporting of tax fraud at the company. Abdollahi was an excellent employee, receiving praise from executives and gifts from Serling on October 31, 2021.

1 55. As Abdollahi began to discuss the Monthly Tax-Free Payments to Defendant's
 2 Controller matter with Schlesinger early to mid-November, she became hostile, often times
 3 yelling at Abdollahi and reacted with frustration and dismissed Abdollahi's concerns. This led
 4 Abdollahi to file notice with Schlesinger on December 3, 2021 to ask her to stop her abuse. This
 5 e-mail was Abdollahi's formal submission of a hostile working environment with Nugs.net.
 6 Abdollahi pleaded with Schlesinger “[Abdollahi] cannot continue to be treated in a hostile and
 7 abusive manner by [Schlesinger]”. Schlesinger did not stop, however.

9 56. Thereafter Schlesinger and Richter began excluding Abdollahi from key meetings
 10 and treated Abdollahi with a general tone of hostility and distance.

11 57. Subsequent, on or about January 6, 2022 Abdollahi notified Richter and Serling
 12 that the Q4 2021 financial results were below forecast due to “higher churn and material
 13 headwinds put in the business during the quarter”. “Churn” in a streaming business means when
 14 a paying subscriber cancels their video subscription. Richter and Serling were not pleased and
 15 asked Abdollahi to “make the numbers look better”. That is, Richter and Serling were asking
 16 Abdollahi to falsify business records. Abdollahi refused as it would have been a violation of 15
 17 U.S.C. § 77q to provide knowingly false information to investors. Abdollahi informed Richter
 18 and Serling that the financials still needed adjustments related to record tax liabilities related to
 19 “sales tax fraud” and “under the table payments to [Schlesinger]” so Abdollahi suggested a
 20 footnote to the financial statements describing the estimated amount of Federal tax liability. That
 21 same day, during an investor call, Abdollahi reported truthful churn and financial performance to
 22 potential investors Saltwater Capital (“Saltwater”). Serling interrupted Abdollahi and Serling
 23 began to recount falsified churn and financial information to Saltwater. When Serling interrupted
 24 Abdollahi to include an untrue statement of a material fact Serling violated 15 U.S.C. § 77q and
 25

1 is liable under 15 U.S.C. § 771. Since Abdollahi informed Serling and Richter of the actual
 2 financial performance numbers prior to the Saltwater call, Serling and Richter are certain to have
 3 known the truth, and are therefore in violation of 15 U.S.C. § 77q and are liable under 15 U.S.C.
 4 § 771. It was clear to Abdollahi then, that Serling and Richter were focused on telling absolute
 5 lies about the Company's performance to profit from falsified business records.

6 58. Subsequent, on or about January 20, 2022, Abdollahi met with Serling and
 7 Richter to discuss the financial statements Abdollahi prepared for year-end 2021. Richter and
 8 Serling were not pleased and asked Abdollahi to "make the numbers look better". That is,
 9 Richter and Serling were asking Abdollahi to falsify business records, as they had done in the
 10 past. Abdollahi refused as it would have been a violation of 15 U.S.C. § 77q to provide
 11 knowingly false information to investors. That same day, during an investor call with LionTree
 12 LLC ("Lion Tree") and Apollo Global Management Inc. ("Apollo"), Abdollahi presented the
 13 financials including actual Q4 2021 financial underperformance and including truthful churn
 14 performance. Serling and Richter, once again, interrupted Abdollahi and began to recount
 15 falsified churn and financial information to Lion Tree and Apollo. When Serling and Richter
 16 supplanted false or fraudulent claims to investors, they included an untrue statement of a material
 17 fact which is a violation of 15 U.S.C. § 77q and are liable under 15 U.S.C. § 771. Since
 18 Abdollahi informed Serling and Richter of the actual financial performance numbers and
 19 information prior to the Lion Tree and Apollo call, Serling and Richter are certain to have known
 20 the truth and are therefore in violation of 15 U.S.C. § 77q and liable under 15 U.S.C. § 771.
 21

22 59. At this point, Nugs.net no longer sent Abdollahi invitation to merger and
 23 acquisition meetings and excluded Abdollahi on investor related e-mail correspondence. Also at
 24

1 this point, Schlesinger retained her brother's accounting firm to help prepare fraudulent
 2 financials for the upcoming merger with Fly Machine and excluded Abdollahi from the process.

3 60. Subsequent, on or about February 8, 2022 Abdollahi created and presented a
 4 budget presentation for Nugs.net marketing department. Richter interrupted Abdollahi repeatedly
 5 during this meeting often yelling questions at him, and Richter called Abdollahi's numbers
 6 "awful," "junk," and insisted the numbers "don't make sense". Abdollahi was not given an
 7 opportunity to answer Richter's questions or reply fully during the meeting because of Richter's
 8 hostility and yelling. It was clear to Abdollahi then, that Richter was focused primarily on
 9 making the working environment hostile and abusive, and that Richter was unwilling to listen to
 10 Abdollahi or discuss rationally any financial matter at the Company.

12 61. Subsequent, on the same day on or about February 8, 2022 Richter and
 13 Schlesinger met with Abdollahi to discuss the alleged discrepancy in numbers and the hostile
 14 tone Richter displayed toward Abdollahi. Richter informed Abdollahi that Schlesinger "audited
 15 [Abdollahi's] numbers and [found errors]". Abdollahi has maintained a flawless execution of
 16 financial reporting and analysis for his nearly 15-year career up to this point, so Abdollahi was
 17 shocked at the mere allegation. As the conversation progressed it was evident that Schlesinger's
 18 audit was flawed. Abdollahi informed Richter and Schlesinger that "[Schleger] was comparing
 19 FY22 forecast to FY21 actual results, which was not a correct comparison, and of course they
 20 would not match since they are from two different years." Abdollahi then pulled up the source
 21 for both FY22 forecast and FY21 actuals to prove that Abdollahi's numbers were in fact
 22 accurate, and then showed Schlesinger and Richter that the presentation to the Marketing team
 23 hours prior was accurate as well. Both Schlesinger and Richter immediately reduced their hostile
 24 tone, Schlesinger provided no additional comments and Richter told Abdollahi "[Abdollahi] was
 25

1 right and [Richter] sees where [Abdollahi] is coming from.” Abdollahi then asked Richter “even
2 if [Richter] thought there was a mistake, why would [Richter] yell at [Abdollahi], or anyone for
3 that matter, in such a hostile tone.” Richter did not reply and instead terminated the call. It was
4 clear to Abdollahi then, that Schlesinger was manufacturing false evidence and fabricating false
5 information against Abdollahi, and that Richter was asking Schlesinger to do so, just like Richter
6 asked Schlesinger to do with Schlesinger’ brother’s accounting firm in manufacturing false
7 financial statements for the purposes of an interstate equity securities transaction.
8

9 62. Subsequent, on or about February 10, 2022 Abdollahi reported to Serling that in
10 response to his raising the tax fraud issues Richter had been hostile to him, demeaned him, and
11 reduced his bonus. Abdollahi again notified Serling of the illegal tax conversion issue, and
12 Schlesinger tax-fee payments issue and described them both as fraudulent leading to falsified
13 federal tax returns and underpayments to the IRS. Serling thanked Abdollahi for his disclosure
14 and assured Abdollahi that “[Serling] would talk to [Richter]” to correct Richter’s hostility,
15 yelling, and verbal abuse toward Abdollahi.
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17 63. The next day, on February 11, 2022, Abdollahi sent the following email to
18 Serling. See Exhibit “A” for detail.
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1 From: Justin Abdollahi Justin.Abdollahi@nugs.net
2 Subject: Notification of fraud and hostile work environment
3 Date: February 11, 2022 at 11:30 AM
4 To: Brad Serling brad@nugs.net, Justin Abdollahi justin.n.abdollahi@gmail.com



5 Brad,

6 After speaking with you yesterday it became clear to me that you may not be fully aware
7 of material issues regarding your business. I'll jump straight to the point:

8 I uncovered numerous instances of fraud at the company regarding Controller unreported
9 earnings (paid under the table), sales tax fraud and non-compliance, and PPP loan
10 misuse totaling over \$4m (excluding penalty and fees). This fraud is mainly due to
11 below-par accounting/controllership and collusion between Jenna and Jon for personal
12 profit. When discussing solutions with Jenna and Jon they became hostile, abusive, and
13 have treated me very poorly since I first brought this instance to light on 12/2. Since this
14 time, I have continued to be yelled at, verbally abused, and other actions that in total
15 describe a hostile work environment. I have brought up this abusive environment to Jon
16 no less than 4 times, however he has become the lead abuser in the last several weeks,
17 thus necessitating your involvement.

18 Brad, I am letting you know this is illegal activity, to retaliate against me via abuse and
19 hostility, to reduce my bonus payout so severely, to exclude me from meetings, and to
20 take further negative action against me. My actions are considered protected activity
21 under OSHA and whistleblower regulations.

22 My goal is not to whistle blow or raise a lawsuit but to have open and honest
23 communication with Jon and you regarding the circumstances affecting the entire
24 executive team and to shape a clear path forward with mutual respect. I am not sure why
25 Jon, Mary, etc. have not been able to schedule a meeting when I have asked so many
26 times over 3 weeks. I am bringing this to your attention now because your business
27 partner Jon, is about to continue actions of retaliation and will thus accelerate an already
28 pressured situation. My fear is that his next action will force my hand and will set a
motion of reactions that are not necessary to come to a mutual agreement.

I urge you to help Jon reconsider his next step and to meet with the executive team next
week for a calm, open, and honest dialogue. Thank you very much.

Respectfully yours,

Justin

64. One hour later, the same day, Richter informed Abdollahi that Nugs.net was
terminating his employment, effective immediately. Richter did not offer any reason as to the
justification for the termination.

65. Abdollahi has exhausted administrative remedies related to this matter through
OSHA and the U.S. Department of Labor. This matter has aged over 180 days in the U.S.

1 Department of Labor Administrative Review Board and Plaintiff is bringing de novo review of
2 this matter to this Court.

3 66. Abdollahi has mitigated damages to the best of his ability through rigorous
4 interviewing after Nugs.net unlawful termination. Abdollahi obtained full time employment on
5 or about November 22, 2022.

6 67. As a result of Nugs.net's illegal actions, Abdollahi has suffered substantial
7 monetary damages, emotional distress, and harm to his professional reputation, and he will
8 continue to sustain damages into the foreseeable future.

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COUNT I
Taxpayer First Act Retaliation
26 U.S.C. § 7623(d)(1)(A)

68. Plaintiff reasserts and incorporates by reference all paragraphs set forth above as if restated herein.

69. The Taxpayer First Act, 26 U.S.C. § 7623(d)(1)(A), states that, “No employer... may discharge... harass, or in any other manner discriminate against an employee in the terms and conditions of employment (including through an act in the ordinary course of such employee's duties) in reprisal for any lawful act done by the employee...to provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of federal law relating to tax fraud, when the information or assistance is provided to... a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct.” 26 U.S.C. § 7623(d)(1)(A).

70. Nugs.net is an employer under the TFA.

71. Abdollahi was an employee under the TFA.

72. Abdollahi provided information to the executive team at Nugs.net, and therefore provided information to Nugs.net, about violations of internal revenue laws relating to tax fraud, when he disclosed that he believed Nugs.net was publishing false statements in federal payroll tax forms, and federal income tax forms, relating to 1) Monthly Tax-Free Payments to Defendant's Controller, 2) Surplus Sales Tax Conversion Impacting Federal Tax Returns and, 3) Illegal Use of PPP Funds.

73. Nugs.net terminated Abdollahi's employment after discriminating against him in the terms and conditions of employment through harassment and reducing his bonus, in reprisal for Abdollahi's disclosures.

74. Abdollahi has been damaged through loss of employment, income, benefits, as well as loss of professional reputation. Abdollahi also suffers from emotional distress from his termination.

COUNT II
False Claims Act Retaliation
31 U.S.C § 3730(h)

75. Plaintiff reasserts and incorporates by reference all paragraphs set forth above as restated herein.

76. Abdollahi engaged in protected conduct when he disclosed the PPP Loan fraud issue to Serling on February 11, 2022. Abdollahi did so in furtherance to stop Nugs.net's continuing violation of the False Claims Act through its fraudulent use of PPP Loan forgiveness to enrich its executives.

77. Nugs.net, through Serling, knew of Abdollahi's protected activity.

78. Nugs.net were motivated, at least in part, to terminate Abdollahi because of his protected activity due to the very close temporal proximity between his protected activity and his termination of one hour.

79. Abdollahi has been damaged through loss of employment, income, benefits, as well as loss of professional reputation. Abdollahi also suffers from emotional distress from his termination.

COUNT III**Retaliation under California Whistleblower Act
CA Labor Code § 1102.5 *et seq.***

80. Plaintiff reasserts and incorporates by reference all paragraphs set forth above as if restated herein.

81. “[S]ection 1102.5 prohibits an employer from retaliating against an employee for sharing information the employee **has reasonable cause to believe** ... discloses a violation of state or federal statute or of a local, state, or federal rule or regulation with a government agency, with a person with authority over the employee, or with another employee who has authority to investigate or correct the violation.” *See Lawson v. PPG Architectural Finishes, Inc.*, 12 Cal. 5th 703 (2022) (emphasis added).

82. Nugs.net is an employer under the CWA.

83. Abdollahi was an employee under the CWA.

84. Abdollahi provided information to the executive team at Nugs.net, and therefore provided information to Nugs.net, about his reasonable belief of Nugs.net’s violations the TFA, the False Claims Act, and the California Wage Payment and Collection Act.

85. Nugs.net terminated Abdollahi’s employment after discriminating against him in the terms and conditions of employment through harassment and reducing his bonus, in reprisal for Abdollahi’s foregoing disclosures.

86. Abdollahi’s disclosures were a contributing factor in Nugs.net’s decision to terminate him, and Nugs.net will be unable to provide clear and convincing evidence that it would have terminated him in the absence of protected disclosures.

87. Abdollahi has been damaged through loss of employment, income, benefits, as well as loss of professional reputation. Abdollahi also suffers from emotional distress from his termination.

COUNT IV
California Wage Payment and Collection Act
Cal Labor Code § 203 *et seq.*

88. Plaintiff reasserts and incorporates by reference all paragraphs set forth above as restated herein.

89. To prevail on a cause of action for failure to pay wages, an employee must show
he was owed wages by his employer and was not given those wages when due or immediately
upon his termination.

12 90. Under the California Wage Payment and Collection Act, bonuses, executives, and
13 vacation hours all count as wages.

91. Nugs.net, the employer, per its contract with Abdollahi, the employee, a certain number of vacation hours and a bonus that would represent 15% through 30% of that salary.

17 92. Upon his termination, Abdollahi did not receive his vacation hours nor his
18 remaining bonus.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff Justin Abdollahi, pray that judgment be entered against Defendants for violation of the foregoing statutory causes of action as follows:

- a) Economic damages in the amount of \$789,076 which represents lost compensation, benefits, back pay, pre-judgement interest, and reasonable attorney fees. Pursuant to 26 U.S.C. § 7623(d)(1)(A), economic damages include 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest as well as liquidated damages for emotional distress and harm to professional reputation.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure and pursuant to the local rules of this Court, Plaintiff demands a jury trial as to all issues so triable.

Respectfully submitted,

MC

By:

Justin Abdollahi
1200 N. Flores St #111
West Hollywood, CA 90069
justin.n.abdollahi@gmail.com
(917) 310-8343

EXHIBIT A – E-MAIL TO NUGS.NET

From: Justin Abdollahi Justin.Abdollahi@nuga.net 
Subject: Notification of fraud and hostile work environment
Date: February 11, 2022 at 11:30 AM
To: Brad Seeling Brad.Seeling@nuga.net, Justin Abdollahi justin.n.abdollahi@gmail.com

JA

Brad

After speaking with you yesterday it became clear to me that you may not be fully aware of material issues regarding your business. I'll jump straight to the point:

I uncovered numerous instances of fraud at the company regarding Controller unreported earnings (paid under the table), sales tax fraud and non-compliance, and PPP loan misuse totaling over \$4m (excluding penalty and fees). This fraud is mainly due to below-par accounting/controllership and collusion between Jenna and Jon for personal profit. When discussing solutions with Jenna and Jon they became hostile, abusive, and have treated me very poorly since I first brought this instance to light on 12/2. Since this time, I have continued to be yelled at, verbally abused, and other actions that in total describe a hostile work environment. I have brought up this abusive environment to Jon no less than 4 times, however he has become the lead abuser in the last several weeks, thus necessitating your involvement.

Brad, I am letting you know this is illegal activity, to retaliate against me via abuse and hostility, to reduce my bonus payout so severely, to exclude me from meetings, and to take further negative action against me. My actions are considered protected activity under OSHA and whistleblower regulations.

My goal is not to whistle blow or raise a lawsuit but to have open and honest communication with Jon and you regarding the circumstances affecting the entire executive team and to shape a clear path forward with mutual respect. I am not sure why Jon, Mary, etc. have not been able to schedule a meeting when I have asked so many times over 3 weeks. I am bringing this to your attention now because your business partner Jon, is about to continue actions of retaliation and will thus accelerate an already pressured situation. My fear is that his next action will force my hand and will set a motion of reactions that are not necessary to come to a mutual agreement.

I urge you to help Jon reconsider his next step and to meet with the executive team next week for a calm, open, and honest dialogue. Thank you very much.

Respectfully yours,

Justin

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EXHIBIT B – NUGS.NET CHECKOUT																	
Secure Checkout	ORDER SUMMARY																
	<table border="1"> <tr> <td></td> <td>10/22/21 Fiddler's Green Amphitheatre</td> </tr> <tr> <td>Englewood, CO</td> <td>David and Company</td> </tr> <tr> <td>CD</td> <td>Qty1</td> </tr> <tr> <td></td> <td>\$24.95</td> </tr> <tr> <td></td> <td>Subtotal \$24.95</td> </tr> <tr> <td></td> <td>Edit Shipping Ground \$5.50</td> </tr> <tr> <td></td> <td>Sales Tax \$2.89</td> </tr> <tr> <td></td> <td>Order Total \$33.34</td> </tr> </table>		10/22/21 Fiddler's Green Amphitheatre	Englewood, CO	David and Company	CD	Qty1		\$24.95		Subtotal \$24.95		Edit Shipping Ground \$5.50		Sales Tax \$2.89		Order Total \$33.34
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2.1% ERROR	<p>Justin Abdollahi 755 Spring St Los Angeles, CA 90013 United States of America</p> <p>Shipping: Ground WEHO - 10.25% LA - 9.5% SF - 8.63% CA - 6%</p> <p>→</p> <p>Justine Abdollahi 755 Spring St Los Angeles, CA 90013 United States of America</p> <p>Shipping: Ground WEHO - 10.25% LA - 9.5% SF - 8.63% CA - 6%</p> <p>→</p> <p>Justin Abdollahi 755 Spring St Los Angeles, CA 90013 United States of America</p> <p>Shipping: Ground WEHO - 10.25% LA - 9.5% SF - 8.63% CA - 6%</p> <p>→</p> <p>Justin Abdollahi 755 Spring St Los Angeles, CA 90013 United States of America</p> <p>Shipping: Ground WEHO - 10.25% LA - 9.5% SF - 8.63% CA - 6%</p> <p>→</p> <p>Justin Abdollahi 755 Spring St Los Angeles, CA 90013 United States of America</p> <p>Shipping: Ground WEHO - 10.25% LA - 9.5% SF - 8.63% CA - 6%</p> <p>→</p>																
nugs.net	<p>ENTER SHIPPING ADDRESS</p> <p>FIRST NAME: Justin</p> <p>LAST NAME: Abdollahi</p> <p>CITY: Los Angeles</p> <p>STREET ADDRESS, UNIT #, ETC.: 755 Spring St</p> <p>ZIP CODE: 90013</p> <p>STATE:</p> <p>PHONE:</p> <p>ADD TO ADDRESS BOOK</p> <p>USE THIS ADDRESS FOR BILLING</p> <p>CONTINUE</p> <p>SELECT SHIPPING METHOD</p> <p>ENTER BILLING ADDRESS</p> <p>ENTER COUPON CODES</p> <p>SELECT PAYMENT METHOD</p>																